

Executive Summary – Enforcement Matter – Case No. 43654
WM Resource Recovery & Recycling Center, Inc.
RN100922392
Docket No. 2012-0462-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

WM Resource Recovery & Recycling Center, 7505 Anahuac Highway 65, Anahuac, Chambers County

Type of Operation:

Recycling center

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 28, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$22,485

Amount Deferred for Expedited Settlement: \$4,497

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$17,988

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 43654
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Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 11, 2011 through December 12, 2011

Date(s) of NOE(s): February 9, 2012

Violation Information

1. Failed to maintain records of visible emissions observations of the ash building in the first quarter of 2010; the lime silo from April 2009 through December 2010; the carbon silo in the second and third quarter of 2009 and all quarters in 2010; and the facility operations building in the second and third quarter of 2009 and the fourth quarter of 2010 [30 TEX. ADMIN. CODE § 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit (“FOP”) No. O3058, Special Terms and Conditions (“STC”) No. 3A(iv)3].
2. Failed to maintain an opacity limit of 5% averaged over a six-minute period. Specifically, opacity exceeded 5% averaged over a six-minute period for Emissions Point No. 2 on March 17, 2010 and April 21, 2011 [30 TEX. ADMIN. CODE §§ 111.121(5), 116.115(c), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Permit No. 24247, Special Conditions No. 6, and FOP No. O3058, STC Nos. 1A and 6].
3. Failed to accurately document all required information in annual and semiannual performance reports for 2009. Specifically, the reports did not include the analysis of the air pollution control system (“APCS”) bypass malfunction that occurred on August 18, 2009 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), 40 CODE OF FEDERAL REGULATIONS § 60.58c(b)(4) and (b)(5), Permit No. 24247, Special Conditions Nos. 21B, 22, and 24A, and FOP No. O3058, STC Nos. 1A, 6, and 8].
4. Failed to report all instances of deviations. Specifically, the semiannual deviation reports for the periods of May 4, 2009 through November 3, 2009, November 4, 2009 through May 3, 2010, and November 4, 2010 through May 3, 2011 did not include the following deviations: the chamber temperature falling below 1800 degrees Fahrenheit on July 26 through 28, 2009 and September 11, 2009; the APCS bypass malfunction that occurred on August 18, 2009; the failure to properly report and include the APCS bypass malfunction in semiannual and annual reports; and the opacity exceedances that occurred on March 17, 2010 and April 21, 2011 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O3058, General Terms and Conditions].
5. Failed to submit semiannual deviation reports and a permit compliance certification (“PCC”) within 30 days after the end of the reporting period. Specifically, the semiannual deviation reports for the periods of May 4, 2009 through November 3, 2009, November 4, 2009 through May 3, 2010, and May 4, 2010 through November 3,

Executive Summary – Enforcement Matter – Case No. 43654
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Docket No. 2012-0462-AIR-E

2010 and the PCC for the certification period of May 4, 2009 through May 3, 2010 were not submitted until May 6, 2011 [30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(B), and 122.146(2), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O3058, STC No. 9].

6. Failed to submit a copy of the final sampling report to the TCEQ Air Permits Division and Houston Regional Office within 60 days after testing. Specifically, the 2010 stack test report for Unit No. 2 was provided to the TCEQ Air Permits Division and was due to the TCEQ Houston Regional Office on January 18, 2011 but was not submitted until November 17, 2011 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Permit No. 24247, Special Conditions No. 15F, and FOP No. O3058, STC Nos. 6 and 8].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures at the Plant:

- a. On March 25, 2011, contracted with a third party consulting firm to ensure compliance with the FOP reporting requirements;
- b. On May 6, 2011, submitted the semiannual deviation reports for the periods of May 4, 2009 through November 3, 2009, November 4, 2009 through May 3, 2010, and May 4, 2010 through November 3, 2010 and the PCC for the certification period of May 4, 2009 through May 3, 2010;
- c. On December 28, 2011, began conducting and documenting all visible emissions observations;
- d. On November 17, 2011, submitted the 2010 stack test report to the Houston Regional Office;
- e. On February 4, 2012, provided operator training specifically addressing air permit reporting requirements, including APCS bypass malfunction reporting; and
- f. On March 9, 2012, reviewed incinerator operating procedures to ensure the proper operation of the incinerator in order to maintain compliance with opacity limits and other permit conditions.

Technical Requirements:

N/A

Executive Summary – Enforcement Matter – Case No. 43654
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Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Roshondra Lowe, Enforcement Division,
Enforcement Team 5, MC R-12, (713) 767-3553; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Rick Kania, Director, WM Resource Recovery & Recycling Center, Inc.,
7505 Anahuac Highway 65, Anahuac, Texas 77514
Wayne Fischer, Plant Manager, WM Resource Recovery & Recycling Center, Inc., 7505
Anahuac Highway 65, Anahuac, Texas 77514
Respondent's Attorney: N/A

DATES	Assigned	13-Feb-2012	Screening	24-Feb-2012	EPA Due	5-Nov-2012
	PCW	1-Jun-2012				

RESPONDENT/FACILITY INFORMATION			
Respondent	WM Resource Recovery & Recycling Center, Inc.		
Reg. Ent. Ref. No.	RN100922392		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	43654	No. of Violations	6
Docket No.	2012-0462-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	John Muennink
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum		\$0	Maximum
			\$10,000

Penalty Calculation Section			
TOTAL BASE PENALTY (Sum of violation base penalties)			Subtotal 1
			\$18,900
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
Compliance History	40.0% Enhancement	Subtotals 2, 3, & 7	\$7,560
Notes	Enhancement for four NOVs with same/similar violations and one order with denial of liability.		
Culpability	No	0.0% Enhancement	Subtotal 4
			\$0
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments			Subtotal 5
			\$3,975
Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
<div style="display: flex; justify-content: space-between;"> Total EB Amounts \$214 </div> <div style="display: flex; justify-content: space-between;"> Approx. Cost of Compliance \$2,500 </div>		*Capped at the Total EB \$ Amount	
SUM OF SUBTOTALS 1-7			Final Subtotal
			\$22,485
OTHER FACTORS AS JUSTICE MAY REQUIRE		0.0%	Adjustment
			\$0
Reduces or enhances the Final Subtotal by the indicated percentage.			
Notes			
			Final Penalty Amount
			\$22,485
STATUTORY LIMIT ADJUSTMENT			Final Assessed Penalty
			\$22,485
DEFERRAL	20.0% Reduction	Adjustment	-\$4,497
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)			
Notes	Deferral offered for expedited settlement.		
PAYABLE PENALTY			\$17,988

Screening Date 24-Feb-2012

Docket No. 2012-0462-AIR-E

PCW

Respondent WM Resource Recovery & Recycling Center, Inc.

Policy Revision 2 (September 2002)

Case ID No. 43654

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100922392

Media [Statute] Air

Enf. Coordinator John Muennink

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 40%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for four NOVs with same/similar violations and one order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 40%

Screening Date 24-Feb-2012

Docket No. 2012-0462-AIR-E

PCW

Respondent WM Resource Recovery & Recycling Center, Inc.

Policy Revision 2 (September 2002)

Case ID No. 43654

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100922392

Media [Statute] Air

Enf. Coordinator John Muennink

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 122.143(4), Tex. Health & Safety Code § 382.085(b),
Federal Operating Permit ("FOP") No. 03058, Special Terms and Conditions
("STC") No. 3A(iv)3

Violation Description

Failed to maintain records of visible emissions observations of the ash building in the first quarter of 2010; the lime silo from April 2009 through December 2010; the carbon silo in the second and third quarter of 2009 and all quarters for 2010; and the facility operations building in the second and third quarter of 2009 and the fourth quarter of 2010, as documented during an investigation conducted from October 11, 2011 through December 12, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 25%

Matrix Notes

The Respondent failed to meet more than 70% of the rule requirement.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

639 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$2,500

One single event is recommended for the incomplete set of records.

Good Faith Efforts to Comply

25.0% Reduction

\$625

Before NOV NOV to EDRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes

The Respondent completed corrective measures on October 31, 2011, prior to the February 9, 2012 NOE date.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$32

Violation Final Penalty Total \$2,875

This violation Final Assessed Penalty (adjusted for limits) \$2,875

Economic Benefit Worksheet

Respondent WM Resource Recovery & Recycling Center, Inc.

Case ID No. 43654

Reg. Ent. Reference No. RN100922392

Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$250	1-Apr-2009	28-Dec-2011	2.74	\$34	n/a	\$34
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated expense to implement measures and/or procedures to ensure that records of visible emissions observations are kept. The Date Required is the first date of noncompliance. The Final Date is the date that corrective measures were completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$34

Screening Date 24-Feb-2012

Docket No. 2012-0462-AIR-E

PCW

Respondent WM Resource Recovery & Recycling Center, Inc.

Policy Revision 2 (September 2002)

Case ID No. 43654

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100922392

Media [Statute] Air

Enf. Coordinator John Muennink

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 111.121(5), 116.115(c), and 122.143(4), Tex. Health & Safety Code § 382.085(b), Permit No. 24247, Special Conditions No. 6, and FOP No. 03058, STC Nos. 1A and 6

Violation Description

Failed to maintain an opacity limit of 5% averaged over a six-minute period, as documented during an investigation conducted from October 11, 2011 through December 12, 2011. Specifically, opacity exceeded 5% averaged over a six-minute period for Emissions Point No. 2 on March 17, 2010 and April 21, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to an insignificant amount of pollutants that do not exceed levels protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

2 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$5,000

Two single events are recommended for the exceedances on March 17, 2010 and April 21, 2011.

Good Faith Efforts to Comply

10.0% Reduction

\$500

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes

The Respondent completed corrective measures on March 9, 2012, after the February 9, 2012 NOE date.

Violation Subtotal \$4,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$25

Violation Final Penalty Total \$6,500

This violation Final Assessed Penalty (adjusted for limits) \$6,500

Economic Benefit Worksheet

Respondent WM Resource Recovery & Recycling Center, Inc.
Case ID No. 43654
Reg. Ent. Reference No. RN100922392
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	17-Mar-2010	9-Mar-2012	1.98	\$25	n/a	\$25
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated expense to implement measures and/or procedures to maintain compliance with opacity limits. The Date Required is the first date of noncompliance. The Final Date is the date that corrective measures were completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$25

Screening Date 24-Feb-2012

Docket No. 2012-0462-AIR-E

PCW

Respondent WM Resource Recovery & Recycling Center, Inc.

Policy Revision 2 (September 2002)

Case ID No. 43654

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100922392

Media [Statute] Air

Enf. Coordinator John Muennink

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), 40 Code of Federal Regulations § 60.58c(b)(4) and (b)(5), Permit No. 24247, Special Conditions Nos. 21B, 22, and 24A, and FOP No. O3058, STC Nos. 1A, 6, and 8

Violation Description

Failed to accurately document all required information in annual and semiannual performance reports for 2009, as documented during an investigation conducted from October 11, 2011 through December 12, 2011. Specifically, the reports did not include the analysis of the air pollution control system ("APCS") bypass malfunction that occurred on August 18, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

The Respondent met at least 70% of the rule requirement.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

920 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$100

One single event is recommended for the deficient record for the malfunction that occurred on August 18, 2009.

Good Faith Efforts to Comply

25.0% Reduction

\$25

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent completed corrective measures on February 4, 2012, prior to the February 9, 2012 NOE date.

Violation Subtotal \$75

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$62

Violation Final Penalty Total \$115

This violation Final Assessed Penalty (adjusted for limits) \$115

Economic Benefit Worksheet

Respondent WM Resource Recovery & Recycling Center, Inc.
Case ID No. 43654
Reg. Ent. Reference No. RN100922392
Media Air
Violation No. 3

Percent Interest 5.0
Years of Depreciation 15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	18-Aug-2009	4-Feb-2012	2.47	\$62	n/a	\$62

Notes for DELAYED costs

Estimated expense to implement measures and/or procedures to ensure compliance with APCS bypass malfunction reporting requirements. The Date Required is the date of the malfunction. The Final Date is the date that corrective measures were completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$62

Screening Date 24-Feb-2012

Docket No. 2012-0462-AIR-E

PCW

Respondent WM Resource Recovery & Recycling Center, Inc.

Policy Revision 2 (September 2002)

Case ID No. 43654

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100922392

Media [Statute] Air

Enf. Coordinator John Muennink

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), Tex. Health & Safety Code § 382.085(b), and FOP No. 03058, General Terms and Conditions

Violation Description

Failed to report all instances of deviations, as documented during an investigation conducted from October 11, 2011 through December 12, 2011. Specifically, the semiannual deviation reports for the periods of May 4, 2009 through November 3, 2009, November 4, 2009 through May 3, 2010, and November 4, 2010 through May 3, 2011 did not include the following deviations: the chamber temperature falling below 1800 degrees Fahrenheit on July 26 through 28, 2009 and September 11, 2009; the APCS bypass malfunction that occurred on August 18, 2009; the failure to include the APCS bypass malfunction in semiannual and annual reports; and the opacity exceedances that occurred on March 17, 2010 and April 21, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

The Respondent met at least 70% of the rule requirement.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 3

477 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$300

Three single events are recommended for the three deficient reports.

Good Faith Efforts to Comply

25.0% Reduction

\$75

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent completed corrective measures on March 25, 2011, prior to the February 9, 2012 NOE date.

Violation Subtotal \$225

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$65

Violation Final Penalty Total \$345

This violation Final Assessed Penalty (adjusted for limits) \$345

Economic Benefit Worksheet

Respondent WM Resource Recovery & Recycling Center, Inc.

Case ID No. 43654

Reg. Ent. Reference No. RN100922392

Media Air

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	3-Dec-2009	25-Mar-2011	1.31	\$65	n/a	\$65

Notes for DELAYED costs

Estimated expense to implement measures and/or procedures to ensure the proper reporting of deviations in semiannual deviation reports. The Date Required is the date that the first report was due. The Final Date is the date that corrective measures were completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$65

Screening Date 24-Feb-2012

Docket No. 2012-0462-AIR-E

PCW

Respondent WM Resource Recovery & Recycling Center, Inc.

Policy Revision 2 (September 2002)

Case ID No. 43654

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100922392

Media [Statute] Air

Enf. Coordinator John Muennink

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code §§ 122.143(4), 122.145(2)(B), and 122.146(2), Tex. Health & Safety Code § 382.085(b), and FOP No. O3058, STC No. 9

Violation Description

Failed to submit semiannual deviation reports and a permit compliance certification ("PCC") within 30 days after the end of the reporting period, as documented during an investigation conducted from October 11, 2011 through December 12, 2011. Specifically, the semiannual deviation reports for the periods of May 4, 2009 through November 3, 2009, November 4, 2009 through May 3, 2010, and May 4, 2010 through November 3, 2010 and the PCC for the certification period of May 4, 2009 through May 3, 2010 were not submitted until May 6, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

The Respondent failed to meet 100% of the rule requirement.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 4

519 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$10,000

Four single events are recommended for the four late reports.

Good Faith Efforts to Comply

25.0% Reduction

\$2,500

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent came into compliance on May 6, 2011, prior to the February 9, 2012 NOE.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$11,500

This violation Final Assessed Penalty (adjusted for limits) \$11,500

Economic Benefit Worksheet

Respondent WM Resource Recovery & Recycling Center, Inc.
Case ID No. 43654
Reg. Ent. Reference No. RN100922392
Media Air
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	3-Dec-2009	6-May-2011	1.42	\$18	n/a	\$18

Notes for DELAYED costs

Estimated expense to submit the reports. The Date Required is when the first report was due. The Final Date is the date that all of the reports were submitted.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$18

Screening Date 24-Feb-2012

Docket No. 2012-0462-AIR-E

PCW

Respondent WM Resource Recovery & Recycling Center, Inc.

Policy Revision 2 (September 2002)

Case ID No. 43654

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100922392

Media [Statute] Air

Enf. Coordinator John Muennink

Violation Number 6

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), Permit No. 24247, Special Conditions No. 15F, and FOP No. 03058, STC Nos. 6 and 8

Violation Description

Failed to submit a copy of the final sampling report to the TCEQ Air Permits Division and Houston Regional Office within 60 days after testing, as documented during an investigation conducted from October 11, 2011 through December 12, 2011. Specifically, the 2010 stack test report for Unit No. 2 was provided to the TCEQ Air Permits Division and was due to the TCEQ Houston Regional Office on January 18, 2011 but was not submitted until November 17, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
		x	

Percent 10%

Matrix Notes

The Respondent met 50% of the rule requirement.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

303 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended for the one late report.

Good Faith Efforts to Comply

25.0% Reduction

\$250

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent came into compliance on November 17, 2011, prior to the February 9, 2012 NOE.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10

Violation Final Penalty Total \$1,150

This violation Final Assessed Penalty (adjusted for limits) \$1,150

Economic Benefit Worksheet

Respondent WM Resource Recovery & Recycling Center, Inc.
Case ID No. 43654
Reg. Ent. Reference No. RN100922392
Media Air
Violation No. 6

Percent Interest 5.0
Years of Depreciation 15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	18-Jan-2011	17-Nov-2011	0.83	\$10	n/a	\$10

Notes for DELAYED costs

Estimated expense to submit the stack test report. The Date required is the date that the report was due. The Final Date is the date that the report was submitted.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$10

Compliance History Report

Customer/Respondent/Owner-Operator: CN603402470 WM Resource Recovery & Recycling Center, Inc. Classification: AVERAGE Rating: 10.00
Regulated Entity: RN100922392 WM RESOURCE RECOVERY & RECYCLING CENTER Classification: AVERAGE Site Rating: 10.00

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION ACCOUNT NUMBER C10118J
AIR OPERATING PERMITS 3058
AIR OPERATING PERMITS 50114
MEDICAL WASTE EPA ID TXR000063099
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # 87676
INDUSTRIAL AND HAZARDOUS WASTE (SWR)
AIR NEW SOURCE PERMITS PERMIT 24247
AIR NEW SOURCE PERMITS ACCOUNT NUMBER C10118J
AIR NEW SOURCE PERMITS REGISTRATION 86989
AIR NEW SOURCE PERMITS AFS NUM 4807100077
MUNICIPAL SOLID WASTE PROCESSING PERMIT 2239A
MUNICIPAL SOLID WASTE PROCESSING PERMIT 40254
POLLUTION PREVENTION PLANNING ID NUMBER P07387
AIR EMISSIONS INVENTORY ACCOUNT NUMBER C10118J

Location: 7505 HIGHWAY 65, ANAHUAC, TX

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: February 24, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 24, 2007 to February 24, 2012

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: John Muennink Phone: (713) 422-8970

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? YES
3. If YES, who is the current owner/operator?
WM Resource Recovery & Recycling Center, Inc., OWNER OPERATOR since 10/14/2008
4. If YES, who was/were the prior owner(s)/operator(s)?
Chambers County, OWNER OPERATOR, 1/25/1994 to 10/13/2008
5. If YES, when did the change(s) in owner or operator occur? 10/14/2008
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 07/13/2007

ADMINORDER 2006-1397-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Ec 60.56c(c)(1)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Ec 60.56c(c)(2)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Permit No. 24247, SC No. 29. PERMIT

Description: Failed to conduct annual performance testing of the incinerator within twelve months following the previous performance test conducted on October 29, 2004.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Ec 60.52c(a)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Ec 60.56c(d)(2)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 14.A. PERMIT

No. 10.A. PERMIT
Permit No. 24247, SC No. 29. PERMIT

Description: Failed to ensure that the incinerator is not operated in a substandard condition to ensure compliance with the hydrogen chloride limit of 15 parts per million by volume (ppmv) at 7% oxygen or maintain a 99% destruction efficiency for the incinerator.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	01/03/2008	(459891)
2	08/21/2007	(572524)
3	03/14/2008	(638895)
4	07/08/2008	(684581)
5	07/02/2008	(685031)
6	01/21/2009	(706558)
7	01/17/2009	(708379)
8	06/30/2009	(760310)
9	02/17/2010	(789670)
10	05/12/2010	(790403)
11	09/17/2010	(864203)
12	01/04/2011	(886029)
13	09/09/2011	(944807)
14	02/09/2012	(952224)
15	12/16/2011	(969127)
16	01/19/2012	(971047)
17	12/16/2011	(974230)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	01/03/2008	(459891)	CN603402470
Self Report?	NO		Classification: Moderate
Citation:	24247 SC 7A PERMIT 30 TAC Chapter 101, SubChapter A 101.20(1) 30 TAC Chapter 116, SubChapter B 116.115(c) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Ec 60.52c(a)		
Description:	Failure to emit particulate matter at a concentration below the permit allowable of 0.020 gr/dscm.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Ec 60.52c(a) Permit No. 24247, Special Condition 30 PA		
Description:	The 2004 tests indicate EPN #1 exceeded the emission limits for HCl.		
Date:	01/21/2009	(706558)	CN603402470
Self Report?	NO		Classification: Moderate
Citation:	24247/Special Condition 29 PERMIT 30 TAC Chapter 116, SubChapter B 116.115(c) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Ec 60.52c(a) 5C THSC Chapter 382 382.085(b)		
Description:	RE failed to meet the HCL emissions from Incinerator (EPN 1) during the 2006 stack test.		
Self Report?	NO		Classification: Moderate
Citation:	24247/Special Condition 7A PERMIT 30 TAC Chapter 101, SubChapter A 101.20(1) 30 TAC Chapter 116, SubChapter B 116.115(c) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Ec 60.52c(a) 5C THSC Chapter 382 382.085(b)		
Description:	RE failed to meet the emissions limits for PM emissions for Incinerator (EPN1) during the November 2007 test.		
Self Report?	NO		Classification: Moderate
Citation:	24247/Special Condition 16A PERMIT 30 TAC Chapter 116, SubChapter B 116.115(c) 5C THSC Chapter 382 382.085(b)		
Description:	RE failed the NOx Relative Accuracy Test Audit for Incinerator (EPN1) during the November 2007 test.		
Self Report?	NO		Classification: Moderate

Citation: 24247/Special Condition 16A PERMIT
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Description: RE failed the NOx Relative Accuracy Test Audit for Incinerator (EPN2) during the 2006 test.

Self Report? NO Classification: Moderate

Citation: 24247/Special Condition 7C PERMIT
30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT AAAA 60.1210(c)(2)
5C THSC Chapter 382 382.085(b)
Description: RE failed to meet the emissions limits for NOx for Incinerator (EPN2) during the 2007 test.

Date: 05/12/2010 (790403) CN603402470

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.11(d)
5C THSC Chapter 382 382.085(b)
SC 10 PERMIT
Description: RE shall not operate the APCS in a substandard condition unless the incinerator has ceased charging wastes. (Category B18)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.11(d)
5C THSC Chapter 382 382.085(b)
SC 11 A PERMIT
Description: RE continued to charge the incinerator with waste while the APCS was not operating properly. (Category B18)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT AAAA 60.1215
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Ec 60.52c(a)
5C THSC Chapter 382 382.085(b)
SC 29 PERMIT
SC 8 PERMIT

Description: Failed to comply with the emission rate limits for HCl. (Category B-13)

Date: 02/09/2012 (952224) CN603402470

Self Report? NO Classification: Moderate

Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT AAAA 60.1285
5C THSC Chapter 382 382.085(b)
ST&C 10 OP
Description: Failure to submit semiannual compliance schedule reports within the required time frame. (Category B3)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.145(1)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Ec 60.58c(e)
5C THSC Chapter 382 382.085(b)
SC 25 PERMIT
ST&C 1A and 8 OP

Description: Failure to submit the semiannual performance reports within the required time frame. (Category C7)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Ec 60.52c(a)
5C THSC Chapter 382 382.085(b)
SC 7B PERMIT
ST&C 1A, 6, and 8 PERMIT

Description: Failure to maintain the CO limit of 12 hr rolling periods and 4 hr block averages. (Category B19g1)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT AAAA 60.1215
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Ec 60.56c(d)(2)
5C THSC Chapter 382 382.085(b)
ST&C 1A OP

Description: Failure to maintain the temperature for INCIN-2. (Category B19g 1)

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Ec 60.52c(a)
5C THSC Chapter 382 382.085(b)
SC 1 and 7 PERMIT
ST&C 1; 6; and 8 OP
Description: Failure to maintain the limit for the CO, NOx, and SO2 1 hour block limit for the
INCIN-2. (Category Bg19 1)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter C 122.217(a)(2)
5C THSC Chapter 382 382.085(b)
General Term & Condition OP

Description: Failure to submit request for permit revisions in a timely manner. (Category C7)

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
WM RESOURCE RECOVERY &
RECYCLING CENTER, INC.
RN100922392

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2012-0462-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding WM Resource Recovery & Recycling Center, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a recycling center at 7505 Highway 65 in Anahuac, Chambers County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about February 14, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-Two Thousand Four Hundred Eighty-Five Dollars (\$22,485) is assessed by the Commission in settlement of the

violations alleged in Section II ("Allegations"). The Respondent has paid Seventeen Thousand Nine Hundred Eighty-Eight Dollars (\$17,988) of the administrative penalty and Four Thousand Four Hundred Ninety-Seven Dollars (\$4,497) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. On March 25, 2011, contracted with a third party consulting firm to ensure compliance with the Federal Operating Permit ("FOP") reporting requirements;
 - b. On May 6, 2011, submitted the semiannual deviation reports for the periods of May 4, 2009 through November 3, 2009, November 4, 2009 through May 3, 2010, and May 4, 2010 through November 3, 2010 and the permit compliance certification ("PCC") for the certification period of May 4, 2009 through May 3, 2010;
 - c. On December 28, 2011, began conducting and documenting all visible emissions observations;
 - d. On November 17, 2011, submitted the 2010 stack test report to the Houston Regional Office;
 - e. On February 4, 2012, provided operator training specifically addressing air permit reporting requirements, including air pollution control system ("APCS") bypass malfunction reporting; and
 - f. On March 9, 2012, reviewed incinerator operating procedures to ensure the proper operation of the incinerator in order to maintain compliance with opacity limits and other permit conditions.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to maintain records of visible emissions observations of the ash building in the first quarter of 2010; the lime silo from April 2009 through December 2010; the carbon silo in the second and third quarter of 2009 and all quarters in 2010; and the facility operations building in the second and third quarter of 2009 and the fourth quarter of 2010, in violation of 30 TEX. ADMIN. CODE § 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O3058, Special Terms and Conditions ("STC") No. 3A(iv)3, as documented during an investigation conducted from October 11, 2011 through December 12, 2011.
2. Failed to maintain an opacity limit of 5% averaged over a six-minute period, in violation of 30 TEX. ADMIN. CODE §§ 111.121(5), 116.115(c), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Permit No. 24247, Special Conditions No. 6, and FOP No. O3058, STC Nos. 1A and 6, as documented during an investigation conducted from October 11, 2011 through December 12, 2011. Specifically, opacity exceeded 5% averaged over a six-minute period for Emissions Point No. 2 on March 17, 2010 and April 21, 2011.
3. Failed to accurately document all required information in annual and semiannual performance reports for 2009, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), 40 CODE OF FEDERAL REGULATIONS § 60.58c(b)(4) and (b)(5), Permit No. 24247, Special Conditions Nos. 21B, 22, and 24A, and FOP No. O3058, STC Nos. 1A, 6, and 8, as documented during an investigation conducted from October 11, 2011 through December 12, 2011. Specifically, the reports did not include the analysis of the APCS bypass malfunction that occurred on August 18, 2009.
4. Failed to report all instances of deviations, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O3058, General Terms and Conditions, as documented during an investigation conducted from October 11, 2011 through December 12, 2011. Specifically, the semiannual deviation reports for the periods of May 4, 2009 through November 3, 2009, November 4, 2009 through May 3, 2010, and November 4, 2010 through May 3, 2011 did not include the following deviations: the chamber temperature falling below 1800 degrees Fahrenheit on July 26 through 28, 2009 and September 11, 2009; the APCS bypass malfunction that occurred on August 18, 2009; the failure to properly report and include the APCS bypass malfunction in semiannual and annual reports; and the opacity exceedances that occurred on March 17, 2010 and April 21, 2011.
5. Failed to submit semiannual deviation reports and a PCC within 30 days after the end of the reporting period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(B), and 122.146(2), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O3058, STC No. 9, as documented during an investigation conducted from October 11, 2011 through

December 12, 2011. Specifically, the semiannual deviation reports for the periods of May 4, 2009 through November 3, 2009, November 4, 2009 through May 3, 2010, and May 4, 2010 through November 3, 2010 and the PCC for the certification period of May 4, 2009 through May 3, 2010 were not submitted until May 6, 2011.

6. Failed to submit a copy of the final sampling report to the TCEQ Air Permits Division and Houston Regional Office within 60 days after testing, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Permit No. 24247, Special Conditions No. 15F, and FOP No. O3058, STC Nos. 6 and 8, as documented during an investigation conducted from October 11, 2011 through December 12, 2011. Specifically, the 2010 stack test report for Unit No. 2 was provided to the TCEQ Air Permits Division and was due to the TCEQ Houston Regional Office on January 18, 2011 but was not submitted until November 17, 2011.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: WM Resource Recovery & Recycling Center, Inc., Docket No. 2012-0462-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or

otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

10/26/12

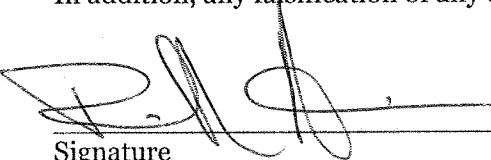
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions;
- and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

6-12-2012

Date

Rick Kania

Name (Printed or typed)
Authorized Representative of
WM Resource Recovery & Recycling Center, Inc.

Director

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.